

## **REMARKS**

Reconsideration of this application is respectfully requested.

### **I. Status of the Application**

Claims 1 - 23 are currently pending in this application. With this Amendment, Applicants amend claims 1 and 9, and adds new claims 24 and 25. No new matter is added. Support for the amendments may be found, for example, in Applicant's specification at page 7, line 16 through page 8, line 17.

### **II. Claim Rejections**

Claims 1 - 16 are rejected under 35 USC §103(a) as being unpatentable over Kuisma et al. (U.S. Patent Application No. 2002/0078228) in view of Cantwell et al. (U.S. Patent No. 6,553,237). Claim 17 is rejected under 35 USC §103(a) as being unpatentable over Kuisma in view of Cantwell and Alvarez et al. (U.S. Patent Publication No. 2006/0121889). Claims 18 - 23 are rejected under 35 USC §103(a) as being unpatentable over Kuisma in view of Cantwell and Crocker et al. (U.S. Patent Publication No. 2004/0198366). Applicants amend independent claims 1 and 9 to further clarify the nature of their claimed invention, and respectfully traverse the rejections.

In amended independent claim 1, for example, Applicants claim:

1. A method for handling messaging errors in a wireless network resulting from an attempted receipt of a message by a wireless telephone comprising the steps of:

- receiving a message notification from a first messaging switch, the message notification being associated with a message at a second messaging switch;
- initially attempting to retrieve the message from the second messaging switch;

- receiving an error message including an error code corresponding to an error condition from the second messaging switch;

- classifying the error condition as temporal or permanent on the basis of the received error code;

- automatically performing a plurality of retry attempts to retrieve the message when the error condition is classified as temporal, each retry attempt being

performed after a corresponding waiting period has passed since the previous attempt to retrieve the message; and  
abandoning the message when the error condition is classified as permanent.

Kuisma discloses a method of transferring a multimedia message in a multimedia messaging system from a multimedia messaging center to a wireless terminal (see, e.g., abstract of Kuisma). As acknowledged by the Examiner, Kuisma fails to disclose or suggest a method for performing retry attempts in the event that the message transfer results in an error. The Examiner suggests that this deficiency is overcome by the addition of Cantwell.

Cantwell discloses a method for controlling network accesses attempted by a remote unit (wireless terminal) in a wireless network (see, e.g., abstract of Cantwell). Like Applicants' claimed method, Cantwell's method discloses steps for controlling subsequent access attempts in the event that an initial access attempt is unsuccessful. However, in sharp contrast to Applicants' claimed method, Cantwell in combination with Kuisma fails to disclose or suggest method steps for first classifying an error condition as temporal or permanent based on a received error code, performing one or more retry attempts if the error code indicates that the error condition should be classified as "temporal," and abandoning the message if the error code indicates that the error code indicates that the error condition should be classified as "permanent." By eliminating retry attempts for "permanent" error conditions which are unlikely to be remedied within a short period of time, Applicants' claimed classification step improves upon the method taught and suggested by the cited references by completely avoiding retry attempts that have a very low probability of success (see, e.g., page 8, lines 3 - 7 of Applicants' specification).

With reference to Col. 4, lines 46 - 48 of Cantwell, the Examiner suggest that Cantwell teaches Applicants' claimed classification step. Applicants respectfully disagree. At Col. 4, lines 46 - 48, Cantwell describes methods for determining time out intervals between retry attempts by stating that:

[any] technique by which time out intervals might be detected and varied during the course of a plurality of attempts at establishing connection with the base station might be employable in connection with the remote unit.

(Emphasis added)

In sharp contrast to Applicants' claimed invention, Cantwell fails to describe or suggest any relationship between these time out intervals and the classification of error codes associated with error messages. While Cantwell teaches a method for progressively decreasing the frequency of retry attempts by adjusting time out intervals, Cantwell nowhere teaches or suggests Applicants' claimed method in which retry attempts are altogether abandoned when an error code associated with an error message is classified as indicating a permanent error condition.

The Examiner suggests that Applicants' references to "permanent error conditions" are vague. Applicants amend independent claim 1 to indicate that classifications as to "temporal" and "permanent" error conditions are made explicitly with reference to error codes received with the error messages.

As further described in the specification, for example, at page 7, line 16 through page 8, line 17, temporal and permanent error conditions can be distinguished according to the probability with which each is likely to be resolved during a user session through "normal" operation of the wireless network. Listed as examples of temporal conditions are lack of wireless coverage and insufficient availability of bandwidth for a new data connection. Listed as examples of permanent conditions are absence of the message at the MMSC or ineligibility of the identified user to receive messages.

Applicants submit that each available message error code may be appropriately and precisely classified as indicating either a "temporal" error condition or a "permanent" error condition on this basis, without any vagueness. Applicants further submit that none of the cited references, either alone or in combination, teach or suggest this novel classification scheme, and as a result, fail to enjoy the benefit provided by Applicants' claimed invention in eliminating message retrieval retries for message errors having a low probability of self-correction by the network during a user session.

Accordingly, Applicants respectfully submit that amended independent claim 1 is not made obvious by the combination of Kuisma and Cantwell, and is therefore in condition for allowance. As amended independent claim 9 substantially includes the above-argued features of claim 1, Applicants submit that amended independent claim 9 is also allowable for at least the above-argued reasons.

Each of current dependent claims 2 - 8 and 10 - 23 depends from one of allowable independent claims 1 and 9. Applicants respectfully submit that each of dependent claims 2 - 8 and 10 - 23 is allowable for at least this reason.

### **III. New Claims**

With this Amendment, Applicants add new claims 24 and 25. As new claims 24 and 25 respectively depend from allowable independent claims 1 and 9, Applicants respectfully submit that new claims 24 and 25 are also allowable for at least this reason.

**CONCLUSION**

Therefore, in view of the above amendments and remarks, it is respectfully requested that a Notice of Allowance as to all pending claims be issued in this case.

If there are any other issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned at the telephone number indicated below.

Dated: December 7, 2006

Respectfully submitted,

By 

Thomas J. Bean

Registration No.: 44,528

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant